

REMARKS

Rejection of Claims 1 – 26 Under 35 U.S.C. § 102(b)

Claims 1 – 26 stand rejected under 35 U.S.C. §102(b) as being clearly anticipated by U.S. Patent No. 6,622,128 B1 by Bedell. The Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of claims 1 – 26. The law is clear that anticipation requires that a single prior art reference disclose each and every limitation of the claim sought to be rejected. 35 U.S.C. § 102(b). The law is also clear that a claim in dependent form shall be construed to incorporate all the limitations of the claim to which it refers. 35 U.S.C. § 112 ¶ 4. Bedell, however, fails to meet these requirements.

Applicant respectfully submits that claim 1 defines over the art cited by the Examiner and respectfully requests withdrawal of the rejection. Likewise, Claims 2 - 18, which depend from claim 1, further define the invention over the art cited by the Examiner. Thus, Applicant respectfully requests withdrawal of the rejection. Furthermore, independent claims 19, 21, 22, 23, and 26, and the claims dependent thereon, are clearly distinguishable over the art of record and therefore Applicant respectfully requests withdrawal of all rejections.

The Bedell reference discloses a traditional billing system whose very purpose is to capture hours generated by an outside law firm and to report to the in-house counsel the work performed and the corresponding dollar value of those hours worked. The control lies complete within the outside counsel in controlling, conducting, and then billing the client on the work performed. Bedell fails to teach the cost control measures as claimed in Applicant's invention. Bedell and other references of record also focus on

the outside law firm providing the client, in-house counsel, with cost estimates which are in turn used to establish a budget guideline that can be freely altered by the law firm. By contrast, Applicant's invention powers the client with the tools to create an actual budget that the law firm must stay within and cannot modify without pre-approved permission by the client. Bedell offers no such cost and control measures which places the management of the case entirely within the client's hands instead of the law firm's hands. Further, Bedell focuses on capturing the number of hours the law firm works as well as materials used which means the client has no control on costs. Applicant's invention totally overcomes this concern and does not even allow the number of hours worked to be input into or even considered by the system.

The Bedell patent does not prevent inefficiencies in the law firm's litigation system, nor does it have any mechanism in place for preventing over payment, over charges, or inefficiencies, nor does it keep the law firm within a set budget. By contrast, Applicant's invention eliminates any possibility of over payment, or the law firm exceeding the actual budget. Further, applicant's invention forces the inefficiencies of the law firm to be the firm's burden and to not be passed on to the client. Applicant's invention precludes non-approved tasks from being paid, unlike Bedell. In short, Bedell does not control the costs of the individual tasks that an attorney may perform during the course of a lawsuit. By contrast, Applicant's invention gives the client total control over the cost of each individual task performed during the course of the lawsuit, by virtue of the adoption of the pre-established process maps which have been selected by the client which are in turn used to generate an actual budget. That actual budget is accepted by the law firm and becomes the template for the entire case. Thus, Applicant's invention, unlike Bedell which relies upon hourly rates, is totally task value

specific and once those tasks are completed, the firm can automatically bill the client for completion of said tasks which is totally hourly rate independent.

Independent claim 1 has been amended to recite: A computer based method that allows a client to control and manage the cost of a lawsuit independent of hourly rates comprising the steps of:

a) Selecting pre-established process maps each consisting of individual tasks to be done in the lawsuit;

b) setting pricing and value variables for each individual task to be done which eliminates hourly rates in said method;

c) the client establishing a lawsuit budget by individual task which an outside counsel must follow;

d) providing a case status module with real time information on how the lawsuit is proceeding based upon individual task performed;

e) providing a point and click billing module for automatically [sending] submitting invoices to the client, the invoices having amounts that equal the value variables for individual tasks that have been pre-established and performed; and

f) providing an exceptions module to allow for automatic approval or denial of new work submitted by outside counsel to be done that is beyond the budget.

Neither Bedell nor any of the other references of record teach or disclose a computer based method that allows the client to control and manage the cost of a lawsuit independent of hourly rates as recited in amended Claim 1. For the reasons set forth above, Claim 1 and Claims 2 – 18 that are dependent thereon, are believed to be in allowable order and such action is courteously requested.

Independent Claim 19 has been amended to recite, inter alia, a client controlled computer based litigation cost management system that is not hourly based that has an

exceptions module that is controlled by the client for accommodating alterations to the budget. Applicant submits that Bedell does not disclose a client controlled system. Instead, Bedell teaches a system empowering a law firm to control the litigation and additionally any changes to the firm generated budget, are mandated by the firm, not the client. Applicant's invention focuses on the client controlling the process, both initially at the onset of the litigation, through the conclusion of the case. Thus, taking any inefficiencies by the law firm out of the equation and making the law firm bear the cost of such inefficiencies. Accordingly, independent claim 19, and the claims dependent thereon are believed to be in allowable order and such action is courteously requested.

Independent Claim 21 has been amended to recite, inter alia, a client controlled litigation cost management system comprising a module that maps out in detail the tasks, decision points and litigation variables for the process of litigation. Bedell does not include this module that maps out specific tasks. By contrast, Applicant's invention, see Figures 2 – 7 for process maps, employs pre-established process maps for a variety of typical tasks in a piece of litigation. Values are established to those tasks and decision points which are used collectively to generate a value for that specific task. For example, Figure 2 is a process map for responding to a complaint 28. Neither Bedell nor any of the other references of record specifically discloses a client control litigation cost management system as recited in newly amended Claim 21. Accordingly, Applicant respectfully requests that Claim 21 be allowed.

Claim 22 recites, inter alia, a cost control and management system for assisting in-house counsel in reducing litigation cost comprising a real time budget and cost to complete module that is created by in-house counsel and an exception module that is operable to permit outside counsel to request to modify the budget when a task outside

of the budget arises, and said in-house counsel being operable to deny said request, if the request is approved, the budget is revised. Bedell by contrast does not offer a system allowing in-house counsel to create the budget and then maintain and manage it, as recited in newly amended Claim 22. Instead, Bedell focuses on outside counsel driving the cost of litigation, thus taking that control outside of the client's hands. Accordingly, independent Claim 22 is believed to be in allowable order, and such action is courteously requested.

Independent Claim 23 recites, inter alia, a point and click litigation cost management system that is created and then controlled by a customer. Again, Bedell does not afford the customer, that is in-house counsel, to create and control a litigation cost management system. Instead, Bedell focuses on the law firm to control litigation costs. Accordingly, independent Claim 23, and the claims dependent therein, are believed to be in allowable order and such action is courteously requested.

Independent claim 26 recites, inter alia, a system of a law firm and corporate counsel managing the cost of litigation for a case comprising the corporate counsel generating an actual working budget based on defaults and price variables; the law firm electronically requesting exceptions when a task is outside of the agreed upon actual budget, said corporate counsel either accepting or rejecting the exceptions. Bedell does not disclose corporate counsel creating an actual working budget, that is a budget that must be followed by a law firm. Nor does Bedell disclose a system for exceptions to the budget which must be pre-approved by the client, or the law firm does not get paid. Instead, Bedell discloses a system where the law firm drives the cost, not the client. Accordingly, independent claim 26 is believed to be distinguishable over the prior art of record and Applicant requests that said claim be approved.

Dependent claims 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 17, 18, 24 and 25 have been amended for clarity purposes. Applicant submits that these claims, when taken in consideration with the claims they are dependent on, are believed to be in allowable order and such action is courteously requested.

CONCLUSION

It is respectfully submitted that in view of the above amendments and remarks the claims 1 - 26, as presented, are patentably distinguishable because the cited patents, whether taken alone or in combination, do not teach, suggest or render obvious, the present invention. Therefore, Applicant submits that the pending claims are properly allowable, which allowance is respectfully requested.

The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 364-4300 if any unresolved matters remain.

Respectfully submitted,

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